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AUG 23 2006

NO. 580 P. 1

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## FACSIMILE COVER SHEET

**DATE:** August 23, 2006

**TO:** Examiner BELIVEAU, Scott **FAX NO.:** 571-273-8300  
E. USPTO GPAU 2623

**FROM:** Jeffrey G. Toler  
Reg. No.: 38,342

**RE:** U.S. App. No.: 10/696,395, filed October 29, 2003

**Applicant(s):** Larry B. Pearson, et al.

**Atty Dkt No.:** 1033-MS1001

**Title:** SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

**NO. OF PAGES (including Cover Sheet):** 10

### MESSAGE:

Attached please find:

- Transmittal Form (1 pg)
- Notice of Appeal (in duplicate) (2 pgs)
- Pre-Appeal Brief Request for Review (1 pg)
- Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/696,395
Filing Date	October 29, 2003
First Named Inventor	Larry B. Pearson, et al.
Art Unit	2623
Examiner Name	BELIVEAU, Scott E.
Total Number of Pages in This Submission	10
Attorney Docket Number	1033-MS1001

## ENCLOSURES (Check all that apply)

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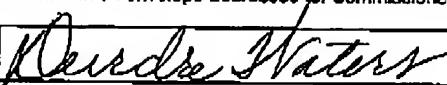
## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Toler Schaffer, L.L.P.		
Signature			
Printed name	Jeffrey G. Toler		
Date	8-23-2006	Reg. No.	38,342

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Deirdre Waters

Date

8-23-06

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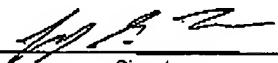
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PTO/SB/33 (07-05)

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>1033-MS1001</b>	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name <b>Deirdre Waters</b></p>		<p>Application Number <b>10/696,395</b></p> <p>First Named Inventor <b>Larry B. Pearson, et al.</b></p> <p>Art Unit <b>2623</b></p>	<p>Filed <b>October 29, 2003</b></p> <p>Examiner <b>BELIVEAU, Scott E.</b></p>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.  <b>Jeffrey G. Toler</b> Typed or printed name</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <b>38,342</b>  <b>512-327-5515</b> Telephone number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <b>8-23-2006</b> <b>Date</b></p>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <b>1</b> forms are submitted.</p>			

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AUG 23 2006

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Larry B. Pearson, et al.

Title: SYSTEM AND METHOD FOR LOCAL VIDEO DISTRIBUTION

App. No.: 10/696,395 Filed: October 29, 2003

Examiner: BELIVEAU, Scott E. Group Art Unit: 2623

Customer No.: 60533 Confirmation No.: 6395

Atty. Dkt. No.: 1033-MS1001

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**REMARKS IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed on July 11, 2006 (hereinafter, "the Final Office Action"), Applicants file herewith a Notice of Appeal and a Pre-Appeal Brief Request for Review and requests review of the following issues:

Applicants respectfully traverse the rejection of independent claims 1, 20, and 40 under 35 U.S.C. § 103(a) over U.S. Pat. No. 6,978,474 ("Sheppard") in view of U.S. Pat. Pub. No. 2005/0251827 ("Ellis") at page 4, paragraph 5 of the Final Office Action. Applicants also respectfully traverse the rejection of independent claim 29 under 35 U.S.C. § 103(a) over Sheppard in view of Ellis and further in view of U.S. Patent Pat. Pub. No. 2002/0078442 ("Reyes") at page 14, paragraph 8 of the Final Office Action.

**1. INDEPENDENT CLAIM 1 IS ALLOWABLE**

Independent claim 1 recites "a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user." Regarding this element of claim 1, the Final Office Action states that Sheppard discloses particular televisions each associated with or assigned radio frequencies. *Final Office Action*, p. 5. However, as the Final

Office Action notes, Sheppard fails to disclose the existence of frequency bands being associated with particular users. *Final Office Action*, p. 5. To overcome this deficiency in Sheppard, the Final Office Action turns to Ellis, stating that Ellis discloses a video distribution system wherein a plurality of users within a household are associated with a plurality of television. *Final Office Action*, p. 5.

In fact, Ellis does not disclose or suggest a video distribution system wherein a plurality of users within a household are associated with a plurality of television. Rather, Ellis discloses a video distribution system wherein a plurality of televisions are associated with particular locations. For example, in Figures 11, 13, 14, 17, 18a, 18b, 19, 21, 23, 24 27, 28, 31, 32, and 33, and the descriptions thereof, Ellis consistently refers to televisions as assigned to locations. Particularly telling are Figures 31 and 11 which include set up screens allowing a user to assign a television to a location and to name the location. *See Ellis*, ¶ [0092].

Additionally, the names given to the rooms in Ellis are arbitrary. *Id.* Thus, the room labeled "Guest Room" in Ellis, could have been given any name, such as "Northeast Corner Bedroom" or "Room 2" without changing the function of Ellis. This point is further illustrated by Figure 11 where one of the locations is named "Living Room", which is clearly not a name intended to associate a television with a user, but rather to associate the television with a location. Nowhere does Ellis disclose associating a television to a particular user. Claim 1 is therefore allowable over the combination of Sheppard and Ellis since the asserted combination does not disclose or suggest each element of claim 1.

Claims 2, 4, 6-10, 34 and 36, which depend from claim 1, were also rejected under the combination of Sheppard and Ellis. Therefore, claims 2, 4, 6-10, 34 and 36 are also allowable at least in light of their dependence from claim 1.

The Final Office Action rejects claims 3, 5, 37 and 38 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. No. 6,762,773 ("Kolde"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 1. Furthermore, Kolde also does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Therefore, the

combination of Sheppard, Ellis and Kolde does not disclose or suggest each feature of claims 3, 5, 37 and 38.

The Final Office Action rejects claim 35 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. Pub. No. 2003/0028872 (“Milovanovic”). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 1. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 1. Furthermore, Milovanovic also does not disclose or suggest a decoded first video information stream modulated to a first radio frequency band associated with a first user and a decoded second video information stream modulated to a second radio frequency band associated with a second user. Therefore, the combination of Sheppard, Ellis and Milovanovic does not disclose or suggest each feature of claim 35.

## **2. INDEPENDENT CLAIM 20 IS ALLOWABLE**

Independent claim 20 recites “an assigned frequency block associated with a particular user.” The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 20 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Claim 20 is therefore allowable. Additionally, claims 22, 24, and 26-28, which are also rejected in view of the combination of Sheppard and Ellis, are allowable at least in light of their dependence from claim 20.

The Final Office Action rejects claim 21 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. No. 6,493,875 (“Eames”). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 20. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 20. Furthermore, Eames also does not disclose or suggest an assigned frequency block associated with a particular user. Therefore, the combination of Sheppard, Ellis and Eames does not disclose or suggest each feature of claim 21.

The Final Office Action rejects claim 23 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of Applicants’ Admission of Fact (APA). The alleged APA does not disclose or suggest an assigned frequency block associated with a particular user, and, as discussed above, the combination of Sheppard and Ellis also does not disclose this feature of claim 20. Therefore, the

combination of Sheppard, Ellis and the alleged APA does not disclose or suggest each feature of claim 23.

### **3. INDEPENDENT CLAIM 29 IS ALLOWABLE**

Independent claims 29 recites "linking a plurality of users with associated carrier frequencies." The Final Office Action relies on the combination of Sheppard and Ellis to disclose this feature. The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 29 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Additionally, Reyes also does not disclose or suggest this feature. Claims 29 is therefore allowable.

The Final Office Action relies on Reyes to disclose authenticating that the first user is associated with a first carrier frequency as recited in claim 29. *Final Office Action*, p. 5, 2nd ¶. What Reyes actually discloses is using a password to unlock a remote control. *Reyes*, p. 2, ¶[0028]. Using a password to unlock a remote control does not disclose or suggest authenticating that the first user is associated with a first carrier frequency as recited in claim 29. Thus, claim 29 is allowable for this reason as well.

Claims 31-33 and 39 which depend from claim 29, were also rejected under the combination of Sheppard, Ellis and Reyes. Therefore, claims 31-33 and 39 are allowable at least in light of their dependence from claim 29.

### **4. INDEPENDENT CLAIM 40 IS ALLOWABLE**

Independent claim 40 recites "linking a plurality of users with associated carrier frequencies." The combination of Sheppard and Ellis does not disclose or suggest this feature of claim 40 for at least the same reasons that the combination does not disclose or suggest each feature of claim 1. Claim 40 is therefore allowable.

The Final Office Action rejects claim 41 under 35 U.S.C. § 103(a) over Sheppard and Ellis in view of U.S. Pat. Pub. No. 2002/0078442 ("Reyes"). In making this rejection, the Final Office Action relies on Sheppard and Ellis to disclose the features of claim 40. As discussed above, the combination of Sheppard and Ellis does not disclose each feature of claim 40. Furthermore, Reyes also does not disclose or suggest linking a plurality of users with associated carrier frequencies.

Therefore, the combination of Sheppard, Ellis and Reyes does not disclose or suggest each feature of claim 41.

The Final Office Action rejects claim 42 under 35 U.S.C. § 103(a) over Sheppard, Ellis and Reyes in view of U.S. Pat. No. 6,785,901 ("Horiwitz"). In making this rejection, the Final Office Action relies on Sheppard, Ellis, and Reyes to disclose the features of claim 41. As discussed above, the combination of Sheppard, Ellis and Reyes does not disclose each feature of claim 41. Furthermore, Horiwitz also does not disclose or suggest linking a plurality of users with associated carrier frequencies. Therefore, the combination of Sheppard, Ellis, Reyes and Horiwitz does not disclose or suggest each feature of claim 41.

### CONCLUSION

For the aforementioned reasons, claims 1, 20, 29 and 40 are believed to be patentable over the prior art of record. Claims 2-10, 21-24, 26-28, 31-39, 41, and 42 are dependent claims which depend from one of claims 1, 20, 29, or 40. Claims 2-10, 21-24, 26-28, 31-39, 41, and 42 are thus allowable as dependent claims depending from allowable independent claims.

It is respectfully submitted that the pending claims are in condition for allowance, and favorable action with respect to the present application is requested.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

8-23-2006  
Date

  
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